

**MDR Tracking Number: M5-04-3849-01**

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 07-08-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The IRO agrees with the previous determination that the services for dates of service 10-27-03 through 12-09-03 **were** medically necessary and services rendered 12-10-03 through 05-12-04 **were not** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 8<sup>th</sup> day of October 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 10-27-03 through 12-09-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 8<sup>th</sup> day of October 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh

**NOTICE OF INDEPENDENT REVIEW DECISION – AMENDED DECISION**

**Date:** September 29, 2004

**RE:**

**MDR Tracking #:** M5-04-3849-01

**IRO Certificate #:** 5242

\_\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- A letter from \_\_\_\_\_
- Table of disputed services
- EOB's
- Peer review

**Submitted by Respondent:**

- Statement Letter from \_\_\_\_\_
- Treatment plan
- Initial report
- Daily notes
- Performance tests results
- Peer review

**Clinical History**

According to the supplied documentation, it appears the claimant sustained an injury to her thoracic spine as well as her lumbar spine on \_\_\_\_ when some boxes weighing approximately 30-35 lbs fell on her. The claimant was seen at \_\_\_\_\_. The claimant was prescribed medications. On 10/09/2003, the claimant was seen by \_\_\_\_\_. \_\_\_\_\_ diagnosed the claimant with a disc injury to her lumbar spine. Plain film x-rays revealed a mild scoliosis, and hyperlordosis, but was negative for fractures. A MRI was performed on 11/17/2003 that revealed a normal lumbar spine. Several physical performance tests were performed. The claimant underwent extensive chiropractic therapy. A RME performed at the

treating doctor's request on 01/05/2004 stated that the claimant was not at MMI, but was expected to on or about 04/05/2004. On 01/07/2004, a RME was performed by \_\_\_\_\_ who felt the claimant was at MMI. The daily notes were supplied for review.

### **Requested Service(s)**

Please review and address the medical necessity of the outpatient services rendered between 10/27/2003 – 05/12/2004 including CMT, therapeutic exercises, neuromuscular re-education, manual therapy and EMS.

### **Decision**

I disagree with the insurance carrier and agree with the treating doctor that the dates of service 10/27/2003 – 12/09/2003 were medically necessary. I agree with the insurance carrier that the remainder of care was not medically necessary from 12/10/2003 – 05/12/2004.

### **Rationale/Basis for Decision**

According to the supplied documentation, it appears that the claimant sustained an injury to her thoracic spine on \_\_\_\_\_. The documentation also reports that the claimant had an injury to her lumbar spine. The plain film x-rays did not reveal any fractures. The lumbar MRI revealed no abnormalities. The performance tests provided limited objective information. Without a positive MRI or other objective documentation, the diagnosis in this case would be limited to a sprain/strain. Current medical and chiropractic protocols support the use of passive and active modalities to treat this type of injury. According to the Official Disability Guidelines, 18 visits of therapy are seen as reasonable to treat an injury. If the claimant has improved, then an additional 6 visits may also be utilized. The therapy rendered between 10/27/2003 – 12/09/2003 consisted of 24 visits. At this time, it would be necessary to refer for an orthopedic consult and continue therapy utilizing an aggressive home-based exercise protocol. The objective documentation did not reveal that the claimant was undergoing a self-directed exercise regimen. Continued use of passive modalities is not considered reasonable to treat the injury dated \_\_\_\_\_. Without any additional objective rationale, chiropractic therapy should have been discontinued. If chiropractic therapy had not provided significant improvement in the first 24 visits, then it obviously should not have been continued.